

**STATE OF CONNECTICUT
Commission on Human Rights and Opportunities
OFFICE OF PUBLIC HEARINGS**

Commission on Human Rights and Opportunities ex rel. Samuel Braffith, Complainant : **CASE NO. 0540183**
: **Fed No. 16aa500226**

v.

Peter Pan/Arrow Bus Company Respondent : **November 13, 2009**

RULING
RE: Respondent's Motion in Limine

On October 28, 2004, the complainant filed a complaint affidavit with the commission on human rights and opportunities (commission) alleging that the respondent discriminated against him when it terminated him on or about October 6, 2004 because of his race and color (Black) and retaliated against him because he previously opposed a discriminatory practice on or about October 6, 2004, in violation of Connecticut General Statutes §§ 46a-60 (a) (1) and (a) (4), and Title VII of the Civil Rights Act of 1964 as enforced through § 46a-58 (a).

On October 28, 2009, the respondent filed a motion in limine (motion) to exclude evidence related to the complainant's claims for emotional distress. The respondent argued that this tribunal has no authority to award emotional distress damages that arise from § 46a-60 employment claims based on the rulings in *Commission on Human Rights and Opportunities v. Truelove and Maclean, Inc.*, 238 Conn. 337, 344 - 347 (1996) and *Bridgeport Hospital v. Commission on Human Rights & Opportunities*, 232

Conn. 91 (1995). On November 9, 2009, the commission filed a response to the motion in which it argued that pursuant to *Commission on Human Rights & Opportunities v. Board of Education of the Town of Cheshire*, 270 Conn. 665 (2004), this tribunal has the authority to award the remedies available under § 46a-86 (c) which include emotional distress damages for violations of § 46a-58 (a). It further argued that the federal claim of Title VII is covered under § 46a-58 (a) and that “General Statutes § 46a-58 (a) has expressly converted a violation of federal antidiscrimination laws into a violation of Connecticut antidiscrimination laws.” *Trimachi v. Connecticut Workers Compensation Committee*, 2000 WL 872451 (Conn. Super June 14, 2000) (No. CV 970403037S).

The issue of awarding emotional distress damages in employment claims arising from Title VII violations has been fully analyzed in prior decisions and rulings. See *Commission on Human Rights & Opportunities ex rel. John Crebase v. Proctor and Gamble Pharmaceuticals, Inc.* CHRO No. 0330171, pp. 69-71 (July 12, 2006). Emotional distress damages pursuant to § 46a-86 (c) may be awarded for violations of § 46a-58 (a) as was ordered in *Crebase*, supra. Subsequently, this tribunal continued to decide, in the affirmative, the issue of awarding emotional distress damages for violations of Title VII employment claims that are covered under § 46a-58 (a). As a result, emotional distress damages have been awarded for violations of Title VII as enforced through § 46a-58 (a) in *Commission on Human Rights & Opportunities ex rel. Randall L. Saex v. Wireless Retail, Inc.*, CHRO NO. 0410175, July 26, 2006; *Commission on Human Rights & Opportunities ex rel. Rosa DiMicco v. Neil Roberts, Inc.*, CHRO No. 0420438, September 12, 2006; *Commission on Human Rights &*

Opportunities ex rel. Correa v. La Casona Restaurant, CHRO No. 0710004, April 28, 2008; *Commission on Human Rights & Opportunities ex rel. Jane Doe v. Claywell Electronics*, CHRO No. 0510199, December 9, 2008; and *Commission on Human Rights & Opportunities ex rel. Jennifer Swindell v. Lighthouse Inn*, CHRO NO. 0840137, January 29, 2009.

Here, the complainant alleged violations of Title VII of the Civil Rights Act of 1964 as enforced through § 46a-58 (a). Only the complainant's race and color discrimination claims are covered under § 46a-58 (a). Should this tribunal find the respondent violated Title VII as enforced through § 46a-58 (a), the commission and the complainant may seek emotional distress damages under § 46a-86 (c) for those claims covered under § 46a-58 (a). See *Commission on Human Rights & Opportunities ex rel. Gabriel and Carlson v. Town of Fairfield*, CHRO Nos. 0620141, 0620142, pp. 2-4 (Ruling on Motion in Limine) (June 30, 2009). Therefore, the respondent's motion in limine is Denied.

So Ordered.

The Honorable Donna Maria Wilkerson Brilliant
Presiding Human Rights Referee

c. Mr. Samuel Braffith
Attorney Kimberly Jacobsen
Attorney Meghan B. Sullivan